

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: AUG 20 2008

374-08/WLJ
FREEHILL HOGAN & MAHAR LLP
Attorneys for Plaintiffs
CONTI CRISTALLO SCHIFFAHRTS-GMBH & Co. KG
MS CONTI SYDNEY and CONTI CRISTALLO
SCHIFFAHRTS-GMBH & Co. KG MS CONTI
BARCELONA
80 Pine Street
New York, NY 10005
(212) 425-1900
(212) 425-1901 fax

William L. Juska (WJ 0772)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CONTI CRISTALLO SCHIFFAHRTS-GMBH & Co. KG
MS CONTI SYDNEY and CONTI CRISTALLO
SCHIFFAHRTS-GMBH & Co. KG MS CONTI
BARCELONA,

08-Civ- 6186 (CM)

STIPULATION AND ORDER

Plaintiffs,

- against -

SHANDONG YANTAI INTERNATIONAL MARINE
SHIPPING CO., a/k/a SHANDONG PROVINCE
YANTAI INTERNATIONAL MARINE SHIPPING CO.

Defendant,
-----X

IT IS HEREBY STIPULATED AND AGREED by and between the parties to this action, and by Holland & Knight LLP, who have appeared in this action on behalf of interested party FHH Fonds Nr. 29 MS "TAMPA BAY" -- MS "TURTLE BAY" GmbH & Co. Containerschiff KG ("FHH Fonds"), that, the claims set forth in the Complaint and Amended Complaint having been partially settled, the funds totaling \$2,853,452.81 now presently under attachment pursuant to the Court's Order of Maritime Attachment and Garnishment dated July 8,

2008, and in the possession of HSBC (USA), ABN Amro Bank, Wachovia Bank, JP Morgan Chase Bank, Citibank N.A. and the Bank of New York Mellon, are to be released and transferred as follows:

1. A total of \$1,117,416.50 is to be remitted to interested party FHH Fonds, in accordance with remittance details to be provided by letter to the restraining banks by FHH Fonds' attorneys, Holland & Knight LLP. The \$1,117,416.50 to be remitted to FHH Fonds is to be taken from the following restrained funds:

A. ABN Amro Bank - \$	49,688.00	
B. Wachovia Bank - \$	3,103.00	
C. HSBC (USA) - <u>\$1,064,625.50</u>		(out of a total of \$1,970,955.66 restrained by HSBC leaving a balance of \$906,330.16.)
Total	\$1,117,416.50	

2. A total of \$1,736,036.31 is to be remitted to CONTI CRISTALLO SCHIFFAHRTS-GMBH & Co. KG MS CONTI SYDNEY ("CONTI SYDNEY") and CONTI CRISTALLO SCHIFFAHRTS-GMBH & Co. KG MS CONTI BARCELONA ("CONTI BARCELONA"), in accordance with remittance details to be provided by letter to the restraining banks by CONTI SYDNEY's and CONTI BARCELONA's attorneys, Freehill Hogan & Mahar LLP. The \$1,736,036.41 to be remitted to CONTI SYDNEY and CONTI BARCELONA is to be taken from the following restrained funds:

A. HSBC (USA)	- \$906,370.16
B. JP Morgan Chase Bank	- \$238,800.59
C. Citibank N.A.	- \$579,641.63
D. The Bank of New York Mellon	- <u>\$ 11,223.93</u>
Total	\$1,736,036.31

IT IS FURTHER SIPULATED AND AGREED that within 15 days of released funds having been received in the designated accounts of CONTI SYDNEY and CONTI BARCELONA, a Second Amended Complaint will be filed in this action, crediting SYMS for the \$1,736,036.31 paid on CONTI SYDNEY's and CONTI BARCELONA's principal claims, adjusting the claims for interest accordingly and adjusting the principal claims for any further hire which became due after the filing of the First Amended Complaint. The PLAINTIFFS will also seek a Second Amended Process of Maritime Attachment and Garnishment in the amount of the damages claimed in the Second Amended Complaint, with effect retroactive to the date of the original Process of Maritime Attachment and Garnishment, dated July 8, 2008.

IT IS HEREBY ORDERED that from the date of this Order until the \$1,117,416.50 has been transferred to FHH Fonds and the \$1,736,036.31 has been transferred to CONTI SYDNEY and CONTI BARCELONA pursuant to this Order, said monies shall not be subject to further attachment and garnishment by other plaintiffs.

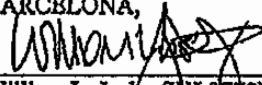
IT IS FURTHER ORDERED that the PLAINTIFFS are granted leave to file a Second amended Complaint and that the Order of Maritime Attachment and Garnishment dated July 8,

2008 remains valid and in full force and effect.

Dated: August 19, 2008

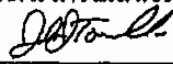
FREEHILL HOGAN & MAHAR, LLP
Attorneys for Plaintiffs
CONTI CRISTALLO SCHIFFAHRTS-GMBH & Co. KG
MS CONTI SYDNEY and CONTI CRISTALLO
SCHIFFAHRTS-GMBH & Co. KG MS CONTI
BARCELONA,

By:


William L. Juska (WJ 0772)
80 Pine Street
New York, NY 10005
(212) 425-1900
(212) 425-1901 fax

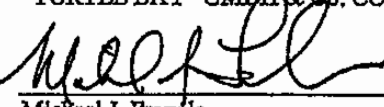
TOMASELLI & CO.
Attorneys for Defendants
SHANDONG YANTAI INTERNATIONAL MARINE
SHIPPING CO., a/k/a SHANDONG PROVINCE
YANTAI INTERNATIONAL MARINE SHIPPING CO.

By:


John J. Tomaselli (JT0360)
110 Wall Street
11th Floor, #68
New York, New York 10005
(212) 461 4880
(212) 214-0318 fax

HOLLAND & KNIGHT, LLP
Attorneys for Interested Party
FHH FONDS Nr. 29 MS "TAMPA BAY" - MS
"TURTLE BAY" GMBH & Co. CONTAINERSCHIFF KG

By:


Michael J. Frevoia
195 Broadway
New York, New York 10007
(212) 513-3516
212) 385-9010 fax

SO ORDERED: AUG 20 2008


Paul A. Krotty
U.S. D.C.

NYDOC81/310665.1

PART